

STATE OF OHIO

DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT:	PAGE 1 of 14
Inmate Access to Court and Counsel	SECTION: 204
	NUMBER: 01
RULE/CODE REFERENCE:	SUPERCEDES:
5120-9-17; 18; 20 and 48	204-01 Eff. 6/23/94
RELATED ACA STANDARDS:	EFFECTIVE DATE:
3-4262, 3-4263, 3-4264, 3-4453, 3-4256, 3-4260, 3-4431, 3-4434	September 10, 1999
RELATED AUDIT STANDARDS:	APPROVED:
	<i>Patricia L. Clark</i>

I. AUTHORITY

This policy is issued pursuant to Section 5120.01 of the Revised Code, which authorizes the Director of the Department of Rehabilitation, and Correction to manage all institutions and divisions of the department and to establish such rules and regulations, as he deems necessary.

II. PURPOSE

The purpose of this policy is to establish guidelines that insure that inmates have adequate access to courts, attorneys, and legal research materials.

III. APPLICABILITY

This policy applies to all Department of Rehabilitation and Correction inmates and employees.

IV. DEFINITIONS

None

V. POLICY

Inmates shall have access to legal counsel by means of visitation which will permit confidential communication, uncensored written correspondence, and telephone communication. Inmates shall have access to courts, so that they may challenge their convictions, sentences, or the conditions of their confinement. Pursuing such legal matters shall not subject the inmate to reprisals or punishment of any sort.

VI. PROCEDURES**A. LAW LIBRARY**

1. Each institution law library shall, at a minimum, maintain current or the most recent editions of the materials specified in the minimum required legal materials list. (See Appendix No. 1) The institution, at the discretion of the warden or designee, may purchase additional legal materials using monies from

the industrial and entertainment or inmate telephone revenue accounts. Additional copies of the required legal materials may be placed at other locations in the institution to make them more accessible to various segments of the inmate population.

2. Each inmate law library shall establish a schedule of reasonable hours that provide inmates with adequate access to legal materials. At least some of these hours shall not conflict with normal work assignments, visitation, counseling or other programs and should include some weekend or evening hours.

B. INMATE CLERKS

1. Inmate clerks may be employed in the law library to assist inmates in the use of the legal materials, to maintain the library collection, for typing, and other clerical duties. Such clerks shall operate under the direct supervision of the librarian or other staff member designated by the warden.
2. The staff member designated by the warden shall determine the duties of the clerk positions in the law library. This staff member shall assign tasks to the inmate clerks. The clerks shall not be permitted to take it upon themselves to determine which inmates they will assist or what tasks they will perform. Inmate clerks shall not be permitted to supervise other inmates or assign tasks to other inmates.
3. Inmates requesting assistance with typing, reading, writing, or researching legal materials or documents shall request such assistance from a staff member designated by the warden who may assign the specific task to one of the inmate clerks.

C. ILLITERATE INMATES

1. Illiterate inmates, or inmates who have physical or mental impairments which prevent them from reading or writing, may request assistance in preparing their initial pleadings to be filed with a court. Such assistance may include assistance with reading or writing their initial pleadings. A staff member designated by the warden shall receive these requests and shall ensure that a staff member or an inmate clerk provides the necessary assistance.
2. For purposes of this policy, inmates who function below a sixth grade level of reading or writing proficiency shall be deemed illiterate. The staff member designated by the warden may contact the institutional school administrator or refer to the inmate's educational records to determine the inmate's literacy.
3. Inmates requiring the assistance of a translator may receive such assistance from a staff member, inmate, volunteer, or if necessary, a person retained under contract for such purpose.
4. Inmates shall be instructed, both orally and in writing, on how they may obtain assistance in preparing or filing initial pleadings with the court. This information

shall also be conveyed in a manner that is reasonably calculated to reach the inmates who might need such assistance.

D. LEGAL SERVICE TO INDIGENT INMATES

1. Upon request, an indigent inmate shall receive a free legal kit containing at a minimum the items listed in Appendix No. 2. An inmate may make such request once every thirty days.
2. An indigent inmate is also entitled to free first class mail to courts of law only. This free mail is in addition to the one free stamped envelope per week provided to all inmates.
3. For purposes of this policy, an inmate is considered indigent if, during the 30 days immediately preceding the request, the inmate has earned or received no more than \$9.00; and, if the inmate's account balance has not exceeded \$9.00 at any time during the 30 days immediately preceding the request.

E. LEGAL MATERIALS

1. Inmates are permitted to possess a reasonable amount of general and personal legal materials.
 - a. General legal materials include items such as law books, form books, photocopied research materials, blank legal forms, stationery items, etc.
 - b. Personal legal materials are those documents that pertain to active litigation to which the inmate is a party. Examples of such materials include pleadings, motions, memoranda, orders, judgments, transcripts, etc.
2. General and personal legal materials shall be maintained within the inmate's overall 2.4 cubic feet property limitation as provided in AR5120-9-33 and applicable institutional policies. General legal materials are subject to the general possession limits applicable to books, law books, stationery, or writing materials etc. as provided in administrative rule 5120-9-33, DRC Policy 205-01, or applicable institutional rules and policies.
3. Inmates are required to keep personal legal materials organized by title and case number. Each document associated with a particular case shall be identified with at least the correct case number.
4. Inmates may be required to produce a list of their active cases any time such materials are packed up and placed in storage for any reason. This list shall identify each active case by title of the case, case number, and the court in which the action is pending.
5. If an inmate has personal legal material which exceeds his/her capacity to store in the space allotted, the inmate may request that he/she be permitted to store the

excess personal legal material in a secure location designated by the warden for such purpose.

- a. A staff person designated by the warden shall review this request. A request for additional storage shall not be granted unless the volume of the inmate's personal legal material is greater than one half of the inmate's footlocker.
- b. Only personal legal material as defined in this policy may be stored in this manner. The inmate shall provide a list of the active litigation upon request.
- c. Inmates requesting additional space must first make reasonable efforts to reduce the amount of legal material in their possession. (E.g., reducing general material, such as stationery supplies, blank forms, photocopied materials, etc; reducing personal legal material, such as duplicate documents, drafts, outdated or unnecessary correspondence, inactive case files, etc.) All excess material, including inactive case files, must be either mailed out of the institution at the inmate's expense or otherwise disposed of by the inmate.

6. Additional space granted to an inmate is subject to review every 60 days. Inmates may exchange stored materials with those in their immediate possession once every thirty days.

F. INMATE LEGAL ASSISTANCE

1. Inmates are permitted to assist one another in the preparation and filing of legal documents or other legal matters. General population inmates should generally be permitted to assist each other in common areas such as the library, dayroom, etc.
2. Although inmates may receive assistance from other inmates, this privilege is not without limitation:
 - a. Inmates do not have a right either to receive assistance from a specific inmate; or, to provide assistance to a specific inmate.
 - b. Wardens, or designee, can impose reasonable time, manner, and place restrictions on the access inmates have with each other even though such restrictions may have an impact on their ability to assist one another. Such restrictions must be based on a legitimate interest in maintaining the good order and discipline of the institution, institutional security, and the personal safety of inmates and staff. In considering time, manner, and place restrictions, institutions should consider factors such as, the housing assignments, control status (AC, LC, DC, SC, PC), custody level, and separations, etc.

- c. Wardens or their designees may in their discretion, approve special or individualized arrangements for inmates to assist one another where a need has been demonstrated and it is otherwise appropriate.
- d. The fact that one inmate is assisting another, does not entitle such inmate to maintain possession the legal materials of another inmate. Inmates may maintain possession of their own legal materials as provided above in Paragraph E.

3. No inmate law clerk, library assistant, or any other inmate shall, in any manner, trade, exchange or deal his/her assistance with legal matters to another inmate. The institution shall prominently display a notice in the law library, and in either the inmate handbook, or orientation materials, which states: "It is a violation of institutional rules for inmates to require payment of any kind for providing legal assistance. No inmate should be required to pay or deal for legal services. If you or someone you know has been asked to pay or deal for legal assistance, please notify your unit manager or the law librarian."

4. No inmate shall hold himself/herself out in any manner as a paralegal or an attorney at law or as authorized to practice law in any capacity.

- a. No inmate shall use the words, "lawyer", "attorney at law," "counselor at law," "law," "law office," "esquire," or other equivalent words in connection with his/her own name, either in writing or orally, in an effort to induce others to believe that he/she is an attorney.
- b. Any inmate who violates 4(a) of this procedure may be issued a conduct report charging a Class II Rule 19 false representation as an attorney under section 4705.07 of the Ohio Revised Code.

G. Communication With Attorneys

1. Legal mail, including inmate mail to and from attorneys, shall be handled pursuant to Administrative Rules 5120-9-17 and 5120-9-18. Letters to or from staff members of the ODRC do not qualify as legal mail under this provision.
2. Attorneys shall be permitted to visit inmates under the procedures set forth in Administrative Rule 5120-9-20. Attorney visits will take place in a room designated for that purpose where they can talk in private but be subject to visual observation.
3. An attorney may request to confer with his or her client by telephone when there is not enough time for the attorney to either correspond with or personally visit the inmate due to the circumstances of the inmate's litigation. Such requests should be directed to the warden or the person designated by the warden. Such conversations between the inmate and the attorney shall be considered confidential the same as in-person visits.

4. Inmates may contact attorneys by telephones placed in the institution for general inmate use; however, because calls from such phones may be monitored and/or recorded, these phones should not be used to discuss confidential attorney/client matters.

APPENDIX 1

MINIMUM REQUIRED MATERIALS FOR INMATE LAW LIBRARIES

I. FEDERAL MATERIALS

- A. United States Code Annotated - West Publishing Company or United States Code Service - Lawyers Cooperative Publishing. Required volumes - all with current supplement.
 - 1. Constitution
 - 2. Title 18
 - 3. Title 28 (Sections 2241-2255)
 - 4. Title 42 (Sections 1981-1985)
 - 5. Federal Rules of Appellate Procedure
 - 6. Rules of Supreme Court.
 - 7. Federal Rules of Evidence.
- B. United States Supreme Court Reporter - West Publishing Company or United States Supreme Court Reports - Lawyers Cooperative Publishing. (From Volume 80 (1959) to the present date plus subscription to advance sheets). (Institutions opened after 1986 begin Volume 92 (1972) through present date plus subscription to advance sheets).
- C. Federal Reporter (2nd Series) West Publishing Company. (From Volume 273 (1960) to the present date plus subscription to advance sheets). (Institutions opened after 1986 begin Volume 451 (1972) through present date plus subscription to advance sheets).
- D. Federal Supplement - West Publishing Company. (From Volume 180 (1960) to the present date plus subscription to advance sheets). (Institutions opened after 1986 begin Volume 351 (1972) through present date plus subscription to advance sheets).
- E. Rules of Local Federal District courts -(Variety of Sources).
 - 1. United States District Courts - Northern District of Ohio.
 - 2. United States District Courts - Southern District of Ohio.

II. STATE MATERIALS

A. North Eastern Reporter (2nd Series) (Ohio Cases) West Publishing Company or Ohio Official Reports by Anderson Publishing Company. (From Volume 159 (1960) to the present plus subscription to advance sheets). (Institutions opened after 1986 begin Volume 272 (1972) through present date plus subscription to advance sheets).

B. Ohio Revised Code - Page's by Anderson Publishing Company or Banks Baldwin.

Required Volumes all with Current Supplements:

<u>Page's</u>	<u>Banks Baldwin</u>
1. Appendix	Constitutions, Tables, General Provisions.
2. Civil Rules	Rules of Court I
3. Title I	Title I
4. Title 19	Title 19, 21
5. Title 21	
6. Title 23, 25	Title 23, 25, 27
7. Title 27	
8. Title 29	Title 29
9. Title 37	Title 37
10. Title 51, 53	Title 51

C. Schroeder - Katz Ohio Criminal Law and Practice - Banks Baldwin, Volumes 1 & 2 with current supplement material.

D. Ohio Administrative Code Administrative Rules:

1. 5120:1-1 Series
2. 5120-2 Series
3. 5120-3 Series
4. 5120-9 Series
5. 5120-11 Series
6. 5120-12 Series
7. 5120-13 Series

III. SHEPARD'S CITATIONS

- * A. Shepard's United States Citations (all),
- * B. Shepard's Federal Citations (all),
- * C. Shepard's Ohio Citations (all).

GENERAL MATERIALS

1. Complete Manual of Criminal Forms, Federal and State; Bailey, F. Lee and Rothblatt, Henry B., Rochester: Lawyers Cooperative, 1968.
2. Black's Law Dictionary; Black, Henry C. (latest ed.), St. Paul: West.
3. Legal Research in a Nutshell (latest ed.); Cohen, Morris L., St. Paul: West.
4. Criminal Procedure in a Nutshell; Israel, Jerold H. and LaFave, Wayne R., St. Paul: West.
5. Federal Habeas Corpus (latest ed.); Liebman, James S., : Michie.
6. Constitutional Rights of Prisoners; Palmer, John W. (latest edition with current supplement); Cincinnati: Anderson.
7. Criminal Law Reporter; Washington, D.C.: Bureau of National Affairs. Weekly.

- * See latest paperback supplement or hard-bound volume for an updated list of volumes and supplements the library should contain.

APPENDIX NO. 2

MINIMUM REQUIRED MATERIALS FOR LEGAL KITS

17. Two large manila envelopes, 10" x 15";
18. One black ink pen;
19. Twenty sheets of carbon, 8-1/2" x 11";
20. Twenty sheets of onion skin, typing paper, 8-1/2" x 11";
21. Twenty sheets of bond paper, typing paper, 8-1/2" x 11"; and
22. One 8-1/2" x 11" white writing-paper tablet.

Appendix No. 3

DEPARTMENT POLICIES ACCESSIBLE TO INMATESPOLICIESEFFECTIVE DATEPublic Information – 003

003-03 Media Policy	02/23/98
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Investigations – 004

004-01 Electronic Monitoring of Conversations	04/23/99
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Fiscal Operations – 103

103-06 1 & E Funds for Outside Entertainment	06/20/97
103-07 Inmate Minimum Release Amount	07/21/97
103-20 Commissary Operations	07/28/97
103-30 Collection Process for Support Orders	12/01/98
103-31 Collection Process for a Court Order to Pay a Stated Obligation	12/01/98

Dietetics – 104

104-03 Vegetarian Diet	08/09/98
104-07 Menu Planning	04/28/99

Education – 105

105-01 Assessment of Inmates by Educational Services	11/27/98
105-03 Test Sites	10/25/93
105-04 College Enrollment Criteria and Recompense for Students Receiving Subsidized Employment Skills Training	10/01/97
105-06 School Health and Safety Policy	01/01/97
105-07 Education of the Handicapped	01/01/97
105-08 Apprenticeship Implementation Process	06/09/97
105-11 Curriculum and Instruction	01/01/97
105-12 Mandatory Education Policy	09/22/98
105-21 Special Education	06/02/97

Library – 106

106-01 Library Philosophy/Mission Statement	06/20/97
106-02 Library Personnel and Development	06/20/97
106-03 Library Developmental Resources	06/20/97
106-04 Library Services	06/20/97

Recreation – 107

107-01	Recreation and Leisure Time Activities	06/15/98
107-02	Video Screening for Inmate Viewing	06/10/98
107-03	Inmate Recreation and Entertainment Privileges	12/12/98
107-04	Inmate Weight Lifting	12/12/98

Work Assignments – 108

108-01	Approval of Earned Credit Programs for Academic, Vocational, Prison Industries, Work Extension	07/21/99
108-02	Program Classification Status Reviews	10/15/93

Classification – 111

111-03	Selection for Minimum Level One Inmates	01/28/99
111-06	Interstate Corrections Compact "Transfer of Inmates"	10/25/93

Management Information Systems – 112

112-11	Photo Identification System	03/02/98
112-12	Inmate Access to Computers	08/31/99

Records – 113

113-01	Days of Credit for Meritorious Service	06/04/99
113-06	Inmate Name Change	01/21/96

Inmate Disciplinary Procedures – 202

202-01	Investigation of Inmate Rule Violations	06/04/98
202-02	Administrative Aspects of the Inmate Disciplinary Process	06/04/98

Inmate Grievance Procedure – 203

203-01	Inmate Grievance Procedure	05/23/97
203-02	Informal Complaint Resolution Process for Inmates	12/26/96

Inmate Legal Services – 204

204-01	Inmate Access to Court and Counsel	06/23/94
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Inmate Property Control - 205

205-01 Inmate Property Limits - Sundry Packages 09/01/91

Discrimination Issues - 207

207-01 Protection From Harm and Unreasonable Searches 04/01/94
207-02 Inmates With Disabilities 07/21/99

Special Management Statuses - 208

208-02 Administrative Control Review Hearing 04/01/94
208-03 Special Management Privilege Levels 09/06/94
208-05 Discipline Procedures for Inmates With Serious Mental Illness 07/08/99

Community Services - 211

211-01 Community Service 05/14/96
211-02 Youth Programs 05/01/98

Reception - 301

301-01 Reception Admission Procedures 11/17/97
301-05 DNA Testing 03/30/98

Inmate Groups - 302

302-01 Requirements for Secular Inmate Groups 06/20/97

Food Services - 304

304-02 Food Service Meals 02/26/99
304-03 Alternate Meal Services (Loaf) 09/15/97

Mail and Printed Material - 305

305-01 Inmate Mail and Printed Material 05/19/98

Recovery Services - 308

308-01 Substance Abuse Recovery Program Plans for Earned Credit 02/03/98
308-02 Institutional Recovery Services Programs 07/25/99
308-04 Inmate Drug Testing 05/18/99

Religious Services – 309

309-01 Religious Services 03/10/97

Social Services – 311

311-03	Inmate Marriages	06/04/98
311-06	Female Offender Programs and Services	06/28/98
311-09	Special Needs Inmates	12/29/97

Visiting – 312

312-01	Inmate Access to the Telephone	04/03/96
312-02	Inmate Visitation	08/12/99

Pre-Release Programming – 313

313-03	Pre-Release Program Criteria for Inmate Programming	02/07/97
313-04	Pre-Release Program	02/07/97

Unit Management – 315

315-02	Accountability/Accessibility of Unit Management Staff	10/13/95
315-05	Unit and Treatment Programming	06/10/98

Mental Health Services – 319

319-08	Mental Health Service Orientation	05/01/99
319-12	Sex Offender Services	08/09/98

Medical Service – 320

320-06	Food Allergies	02/26/97
320-07	Nutritional Screening	02/26/97
320-11	Therapeutic Diets	05/23/97

Office of Correctional Health Care – 321

321-02	Correctional Health Care Services Co-Payment	04/08/99
321-03	Commissary Purchase of OTC Medication and Health Care Items	11/13/98